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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/062,541      | 02/05/2002  | Yukari Terada        | 2018-505            | 3455             |

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EXAMINER

TRAN, DENISE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2186

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/062,541

Applicant(s)

TERADA ET AL.

Examiner

Denise Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2003 and 10 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-24 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-24, 32 and 33 is/are allowed.
- 6) ☒ Claim(s) 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 14 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 08/934,220.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16. 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 22-24, 32-33, and new added claims 34-38 are pending. Claims 1-21 and 25-31 have been canceled.
2. Claims 36-38 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In particular, claim 35, lines 15-18 stated that "before starting to execute the rewriting . . . " Then in the dependent claims 36-38, the change speed of communication before the rewrite control program sent or after the determination of a rewrite mode or before the at least one of a new device control program and data sent.
3. Claims 22-24 and 32-33 are allowable over the prior art of record as recited in the last office action.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Berra et al., U.S. patent No. 5278759 (hereinafter Berra).

As per claim 34, Berra shows a control unit (e.g., fig. 1, el. 12) for a vehicle having a vehicle control device, the control unit comprising: a first memory storing therein at least one of a device control program and data for controlling the vehicle control device, the first memory being a nonvolatile type (e.g., fig. 2, el. Z179, col. 7, lines 30-50); a second memory provided in addition to the first memory (e.g., col. 12, lines 59-65); and a processor for controlling the vehicle control device by using at least one of a device control program and data stored in the first memory (e.g., fig. 2, el. Z144; col. 8, lines 50-56); the processor is constructed to store in a second memory a rewrite control program sent from an external device for executing rewriting of the first memory upon determination of a rewrite mode based on information sent from the external device (e.g., col. 12, lines 50-65; col. 13, lines 15-25; col. 9, lines 45-60), and to rewrite the first memory with at least one of a new device control program and data sent from the external device based on the rewrite control program stored in the second memory (e.g., col. 13, lines 15-25; col. 14, lines 28-35); and the processor is constructed to change a speed of communication with the external device to a new communication speed after the determination of a rewrite mode (e.g., col. 15, lines 10-25), the new communication speed being higher than a communication speed of the information sent from the external device for the determination of a rewrite mode (e.g., col. 15, lines 10-25).

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6. As per claim 35, Berra shows a control unit (e.g., fig. 1, el. 12) for a vehicle having a vehicle control device, the control unit comprising: a first memory storing therein at least one of a device control program and data for controlling the vehicle control device, the first memory being a nonvolatile type (e.g., fig. 2, el. Z179, col. 7, lines 30-50); a second memory provided in addition to the first memory (e.g., col. 12, lines 59-65); and a processor for controlling the vehicle control device by using at least one of a device control program and data stored in the first memory (e.g., fig. 2, el. Z144; col. 8, lines 50-56); the processor is constructed to store in a second memory a rewrite control program sent from an external device for executing rewriting of the first memory upon determination of a rewrite mode based on information sent from the external device (e.g., col. 12, lines 50-65; col. 13, lines 15-25; col. 9, lines 45-60) , and to rewrite the first memory with at least one of a new device control program and data sent from the external device based on the rewrite control program stored in the second memory (e.g., col. 13, lines 15-25; col. 14, lines 28-35) ; and wherein the processor is further constructed to change a speed of communication with the external device to a new communication speed before starting to execute the rewriting of the nonvolatile memory based on the rewrite control program (e.g., col. 15, lines 10-25), the new communication speed being higher than a communication speed of the information sent from the external device for the determination of a rewrite mode (e.g., col. 15, lines 10-25).

As per claim 36, Berra teaches, wherein the processor is further constructed to change a speed of communication with the external device to a new communication

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speed after determination of a rewrite mode (i.e., bootstrap verified or a last rewrite mode; e.g., col. 15, lines 10-25).

As per claim 37, Berra teaches, wherein the processor is further constructed to change a speed of communication with the external device to a new communication speed before the rewrite control program is sent from the external device (e.g., col. 15, lines 10-25).

As per claim 38, Berra teaches, wherein the processor is further constructed to change a speed of communication with the external device to a new communication speed before the at least one of a new device control program and data is sent from the external device (e.g., col. 15, lines 10-25).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Gurne et al. (6181992) is cited to show reprogramming a nonvolatile memory;

b) Zimmermann et al. (5712969) is cited to show reprogramming a nonvolatile memory.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise Tran whose telephone number is (703) 305-

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9823. The examiner can normally be reached on Monday, Thursday and an alternated Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on (703) 305-3821. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for Official communications, (703) 746-7240 for Non Official communications, and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



D.T.  
June 26, 2003